

Memorandum

To: ROBERT P. OGLESBY
Executive Director

Date: DATE

Telephone: (916) 654-5013

From: **California Energy Commission** - Dave Ashuckian, Deputy Director
Efficiency Division
1516 Ninth Street
Sacramento CA 95814-5512

Subject: **POSSIBLE APPROVAL OF THE JURISDICTION'S LOCALLY ADOPTED BUILDING ENERGY STANDARDS TO REQUIRE GREATER ENERGY EFFICIENCY THAN THE 2013 BUILDING ENERGY EFFICIENCY STANDARDS**

Summary of Item

The California Public Resources Code establishes a process that allows cities or counties to adopt and enforce locally adopted energy standards that are more stringent than the statewide standards. This process, described in Section 25402.1, subdivision (h)(2), and the *2008* and *2013 Building Energy Efficiency Standards*, California Code of Regulations, Title 24, Part 1, Chapter 10, Section 10-106 (Standards), allow cities or counties to adopt new versions of the Standards before their statewide effective date (early adoption), require additional energy efficiency measures, or set more stringent energy budgets. The governing body of the city or county is required to make a determination that the standards are cost effective and adopt the findings at a public meeting. The city or county is required to file this determination of cost effectiveness with the California Energy Commission. The Energy Commission must find that the standards will require the diminution of energy consumption levels permitted by the current Standards. The proposed local ordinance cannot be enforced until it is approved by the Energy Commission.

California Environmental Quality Act Assessment: The Jurisdiction's process for adopting ordinances includes procedures to protect the environment (see Pub. Resources Code, §§ 21080, subd. (b)(9), 21084; Cal. Code Regs., tit. 14, §§ 15307, 15308).

Even though the Energy Commission has the authority to approve local building energy standards under Public Resources Code Section 25402.1, subd. (h)(2), and Section 10-106 of California Code of Regulations, Title 24, Part 1, Chapter 10, the Lead Agency for local energy standards is the local jurisdiction because it will be implementing and enforcing those standards (Cal. Code Regs., tit. 14, § 15051).

The Energy Commission staff, acting on behalf of the Energy Commission as a Responsible Agency, has reviewed and considered the Jurisdiction's CEQA

documents and findings prior to recommending approval of the local ordinance. Additionally, the City's determination is final where:

- its CEQA decision has not been challenged (Cal. Code Regs., tit. 14, §15050(c)(1)).
- The circumstances or conditions have not changed since the CEQA decision was made (Cal. Code Regs., tit. 14, §§ §15050(c)(2), 15162).
- No Responsible Agency has become a Lead Agency (Cal. Code Regs., tit. 14, §§ §15050(c)(3), 15052).

The Council/Board of the Jurisdiction found that the ordinance is a project under CEQA. The Council/Board of the Jurisdiction found with certainty that there is no possibility that the ordinance will have a significant negative effect on the environment. Therefore, the Council/Board of the Jurisdiction found on Date, that the project is exempt under the "Common sense" provisions of CEQA (Cal. Code Regs. tit. 14, § 15061(b)(3)).

The Energy Commission found, in April of 2008, that the 2008 revision of the *Building Energy Efficiency Standards of the California Building Code* would have no net adverse impact on the environment and adopted the Negative Declaration for the *2008 Building Energy Efficiency Standards* (see Initial Study/Proposed Negative Declaration, April 2008 at www.energy.ca.gov/2008publications/CEC-400-2008-009/CEC-400-2008-009-SF.PDF).

The Energy Commission found, in April of 2012, that the 2013 revision of the *Building Energy Efficiency Standards of the California Building Code* would have no net adverse impact on the environment and adopted the Negative Declaration for the *2013 Building Energy Efficiency Standards* (see Initial Study/Proposed Negative Declaration, April 2012 at www.energy.ca.gov/2012publications/CEC-400-2012-002/CEC-400-2012-002.pdf).

Since all local codes must be at least as stringent as the *Building Energy Efficiency Standards*, staff can conclude that any ordinance that proposes to exceed such Standards is expected to have no net adverse impact on the environment. Energy Commission staff has confirmed that a valid CEQA assessment was performed and that a supportable finding was reached. Therefore the approval of the Jurisdiction's building energy standard by the Energy Commission is authorized by State law (see Pub. Resources Code, §§ 21080, subd. (b)(9), 21084; Cal. Code Regs., tit. 14, §§ 15307, 15308).

Project Manager

Joseph M. Loyer, Building Standards Office.

Summary of Staff Position

Energy Commission staff has found that the application meets all requirements under Public Resources Code Section 25402.1, subd. (h)(2), and Section 10-106 of Title 24, Part 1, Chapter 10, California Code of Regulations. Energy Commission staff has confirmed that a valid CEQA assessment was performed and that a supportable finding was reached. Energy Commission staff believes that the Jurisdiction is to be commended for seeking to achieve the energy savings that result from its local energy ordinance.

The Jurisdiction has been informed that the approved ordinance will be enforceable while the *2008 or 2013 Building Energy Efficiency Standards (Title 24, Part 6 of the California Building Code)* are enforced. Before implementation of new adopted Standards, the Jurisdiction will be required to resubmit an application for local energy standards under Public Resources Code Section 25402.1, subdivision (h)(2), and Section 10-106 of Title 24, Part 1, Chapter 10, California Code of Regulations.

Oral Presentation Outline

Energy Commission staff will provide a brief summary and be available to answer questions if any arise.

Business Meeting Participants

Joseph M. Loyer, Building Standards Office.

Commission Action Requested

Approval of the Jurisdiction's locally adopted energy standards that result in more stringent energy requirements than the *2013 Building Energy Efficiency Standards*.

Dave Ashuckian, Deputy Director
Efficiency Division

